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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,225	09/14/2000	Peter Cuong Dac Ta	P-5022	3044

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Serge J Hodgson  
Gunnison McKay & Hodgson LLP  
Garden West Office Plaza Suite 220  
1900 Garden Road  
Monterey, CA 93940

EXAMINER

DINH, TUAN T

ART UNIT

PAPER NUMBER

2827

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

4/16

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/662,225	TA, PETER CUONG DAC
<b>Examiner</b>	<b>Art Unit</b>	
Tuan T Dinh	2827	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 May 2002.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22,27-34 and 38-41 is/are pending in the application.

4a) Of the above claim(s) 1-22 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 27-31,38 and 39 is/are rejected.

7) Claim(s) 32-34,40-41 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 27-31,38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Nguyen (U. S. Patent 5,566,049).

**As to claim 27**, Nguyen discloses a structure comprising a retaining bracket (12-figure 2, column 3, lines 33-34) as shown in figures 1-2 comprising:

a body (20, column 3, line 35) comprising:

a first arm and second arm (see attachment paper of figure 2, 1000, 2000, which are lateral bars of the body 20);

a support beam (see attachment paper of figure 2, 300);

a first extension and a second extension (22, 24, column 3, line 36), the first extension attached to a first end (22", see attachment paper of figure 2) of said body (20), said first extension comprising a mounting aperture (32A; 32B, column 3, lines 47-48); and

a first end (24") of said second extension (24) attached to a second end (24', see attachment paper of figure 2) of said body (see figure 2) of said second extension, said second end (24') including a first protrusion and a second protrusion (two ends of lip 34, column 3, lines 45-46);

wherein said first arm, said second arm, and said support beam are integrally attached together.

**As to claim 28,** Nguyen discloses a structure comprising a retaining bracket (12-figure 2, column 3, lines 33-34) as shown in figures 1-2 further comprising:

a plurality of rails (400, 500, see attachment paper of figure 2) along lengths of said first and second arms (1000, 2000), said rails providing strength and rigidity to said first arm and said second arm; and

**As to claim 29,** Nguyen discloses a structure comprising a retaining bracket (12-figure 2, column 3, lines 33-34) as shown in figures 1-2 wherein said first extension (22) and said second extension (24) are perpendicular to said body (figure 2-column 3, lines 43-45).

**As to claim 30, 38,** Nguyen discloses a structure comprising a retaining bracket (12-figure 2, column 3, lines 33-34) as shown in figures 1-2 comprising:

a body (20, column 3, line 35) comprising:

a first extension and a second extension (22, 24, column 3, line 36), the first extension attached to a first end (22", see attachment paper of figure 2) of said body (20), said first extension comprising first and second mounting apertures (32A; 32B, column 3, lines 47-48); and

said first end (24") of said second extension attached to a second end (24', see attachment paper of figure 2) of said body (see figure 2) of said second extension, said second end (24') including a first protrusion and a second protrusion (two ends of lip 34, column 3, lines 45-46);

wherein said first and second extensions are perpendicular to said body;  
a first and second lips defined by said first and second protrusions.

**As to claim 31**, Nguyen discloses a structure comprising a retaining bracket (12-figure 2, column 3, lines 33-34) as shown in figures 1-2 wherein said first and second lips are parallel to said body.

**As to claim 39**, Nguyen discloses a structure comprising a retaining bracket (12-figure 2, column 3, lines 33-34) as shown in figures 1-2, said bracket comprises steel (column 3, lines 61-62).

#### ***Allowable Subject Matter***

3. Claims 32-34, and 40-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 9/14/02 have been fully considered but they are not persuasive.

#### ***Examiner disagrees.***

Nguyen discloses a body (20) having first and second arms (1000, 2000) and a support beam (300), Nguyen clearly discloses first and second extensions (22, 24) being perpendicular to the body (20), the first extension having a first end (22") and apertures (32A, 32B), the second extension (24) having first and second ends (24", 24'),

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the second end (24') having two end of a lip (34) defined first and second protrusions (se attached page of a figure 2).

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T Dinh whose telephone number is 703-306-5856. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Talbott can be reached on 703-305-9883. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-1341 for regular communications and 703-305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

**TD**

November 24, 2002.

*Albert W. Paladini 11-27-02*  
ALBERT W. PALADINI  
PRIMARY EXAMINER